

### **REMARKS / ARGUMENTS**

Claims 39-44 are pending in the present application. Of these, claim 39 is independent.

Claims 39-50 were rejected on as being unpatentable over claims 1, 2, 9-13, 17, 18, 23 and 24 of U.S. Patent No. 6,663,650. Claims 39-44 were rejected as being unpatentable over claims 1-6 of U.S. Patent No. 6,824,545. Claims 39-44 were rejected as being unpatentable over claims 1-6 of U.S. Patent No. 6,730,104.

Claims 39-50 were rejected as being anticipated by Engelson (U.S. Patent No. 5,749,894). Claims 39-50 were rejected as being anticipated by Mirigian et al (U.S. Patent No. 5,700,258). Claims 39-50 were rejected as being anticipated by Kent et al (U.S. Patent No. 5,853,418). Claims 39-50 were rejected as being anticipated by Chee et al (U.S. Patent No. 5,304,194).

Applicant acknowledges the rejections on the ground of nonstatutory obviousness type double patenting over U.S. Patent No. 6,663,650, 6,824,545 and 6,703.104 and Applicant shall address these rejections upon allowance of a claim in the present application.

Applicant respectfully submits that claims 39-44 are not anticipated by Engelson since Engelson is incapable of performing the claimed method. In the Office Action it is asserted that if "the prior art is capable of performing the intended use, then it meets the claim." Applicants submits that the prior art cited under 35 USC Section 102(b) is incapable of performing the claimed use and, therefore, do not anticipate the claimed method.

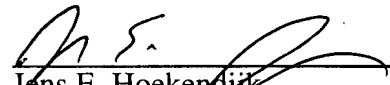
The claimed method is directed to a method of removing an obstruction. Engelson, Mirigian, Kent and Chee ("cited art") are all directed to methods and systems for releasing an embolic coil into an aneurysm or the like. Nowhere does any of the cited art suggest that the embolic coil could be used to remove an obstruction let alone in the claimed manner.

Even if it were possible to engage an obstruction with one or more of the embolic coils in the cited art, which Applicant submits would not be possible, the embolic coil would then simply be released within the obstruction if the catheter were withdrawn. Nowhere does any of the cited art suggest that the operator could somehow pull on the coil after engaging an obstruction and prevent release of the embolic coil. Thus, Applicant submits that the cited art devices are clearly incapable of performing the claimed use.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-412-3322.

Respectfully submitted,

April 12, 2007  
Date

  
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